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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,180	12/07/2001	Benjamin Wiegand	JBP-571	9457

27777 7590 04/08/2005  
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EXAMINER

GEORGE, KONATA M

ART UNIT PAPER NUMBER

1616

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/017,180

Applicant(s)

WIEGAND ET AL.

Examiner

Konata M. George

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

L.

### **DETAILED ACTION**

Claims 1-7 and 9-15 are pending in this application.

#### ***Request for Continued Examination (RCE)***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 5, 2004 has been entered.

#### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on August 18, 2004 was noted and the submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

#### ***Specification***

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. Please note page 3, paragraph 2.

***Election of Species***

4. The election of species requirement dated June 25, 2003 is hereby withdrawn.

***Action Summary***

5. Examiner acknowledges the cancellation of claim 8. Therefore, any and all rejections or objections directed toward the claim are hereby withdrawn.
6. The rejection of claims 1-4, 9, 14 and 15 under 35 U.S.C. 102(b) as being anticipated by Fried is hereby withdrawn.
7. The rejection of claim 7 under 35 U.S.C. 103(a) over Fried in view of Stiefel et al. is hereby withdrawn.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-7 and 9-15 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 1-7 and 9-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Stiefel et al. (US 5,466,446) or Gaull (US 4,545,977) in view of Mrklas et al. (US 5,304,112).

Examiner understands the invention to be a method of reducing the number and severity of acne lesion on the skin of a mammal comprising administering a sensory regimen in combination with an anti-acne composition. The sensory regimen is defined as auditory, visual, tactile, gustatory or olfactory stimuli.

Stiefel teaches a topical composition used to treat skin disorders involving the sebaceous glands and follicles (i.e. acne) in humans (col. 1, lines 7-15). The composition is composed of an effective amount of benzoyl peroxide (anti-acne agent) and clindamycin (antibacterial agent) (col. 2, lines 29-31). The prior art does not teach administering a sensory regimen in an amount effective to down regulate the activity of the HPA axis of said mammal. It is not taught the addition of a fragrance to the anti-acne composition.

Gaull teaches in column 1, lines 45-53 a composition comprising a therapeutically effective amount of isotretinoin, which is effective in the treatment of cystic acne. The composition can be administered in a unitary dosage form i.e., capsule or tablet.

Mrklas et al. discloses a system for reducing stress. The system provides relaxing visual, auditory, tactile, environmental and other effects to reduce the stress level in a human (abstract). Column 5, lines 27-35 describes the set-up for the system comprising a chair, laser projection system and speakers. Column 6, line 22 through

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column 10, line 11 describes in detail the how the system reduces stress i.e. for environmental stimulus the user can control the background lighting, and release fragrances into the air. The user can also control a sound effects module to play music through a tape playback system.

It is the position of the examiner that this invention is a system of two parts. The first aspect of the invention is a reducing the number and severity of acne lesions and the second aspect is a sensory regimen for down regulating the activity of the HPA axis. It is the position of the examiner that as teenagers go through puberty and develop acne, this may cause undue stress upon the teen through being ridiculed by others, which in turns increases HPA axis levels. This is not limited to teenagers as adults do develop acne, the stress of having adult acne can increase HPA axis levels as well. The administration of the anti-acne composition of Stiefel or Gaull together with the system of Mrklas et al. would have been obvious to one of ordinary skill in the art to help reduce the acne lesions and decrease the stress levels caused by it. With respect to adding a fragrance to the anti-acne composition it would have been obvious to one of ordinary skill to add a fragrance to the composition to offset the medicated smell the composition may have. Additionally, the experience of smelling a fragrance can also release the HPA axis levels.

### ***Conclusion***

10. Claims 1-7 and 9-15 are rejected.

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***Telephone Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is (571) 272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Konata M. George

  
GARY KUNZ  
SUPERVISORY PATENT EXAMINER  
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